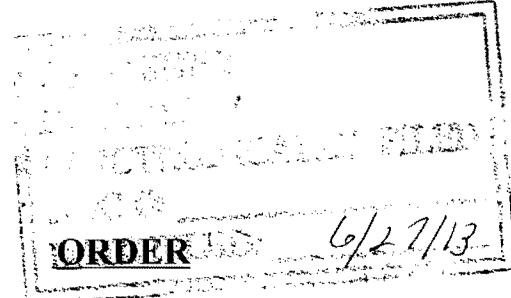


**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**In Re: Methyl Tertiary Butyl Ether
("MTBE") Products Liability Litigation**

This document relates to:

*Commonwealth of Puerto Rico v. Shell Oil Co.
et al., 07 Civ. 10470*



**Master File No. 1:00-1898
MDL 1358 (SAS)**

SHIRA A. SCHEINDLIN, U.S.D.J.:

On June 24, 2013, counsel for the Commonwealth of Puerto Rico submitted a letter to my Chambers requesting that the Commonwealth be granted leave to file "short surreplies to the replies of defendants Trammo Caribbean, Trammo Petroleum, Total Outre Mer, S.A., and Total, S.A [(collectively, the "Moving Defendants")] on their 12(b) motions to dismiss for personal jurisdiction."¹ The Commonwealth claims that the Moving Defendants improperly submitted new evidence in their replies, and requests an opportunity to respond.²

What is lacking from the Commonwealth's letter is any specificity as to *what* purportedly new evidence the Moving Defendants submitted, and *why* it is so prejudicial as to justify allowing additional briefing. By failing to provide these essential details, the Commonwealth's letter burdens the Court with digging

¹ 5/24/13 Commonwealth Letter to Chambers at 1.

² *See id.*

through the parties' submissions in an attempt to divine the basis for its objection. In light of the fact that the Commonwealth's request comes more than a month after the Moving Defendants' reply papers were fully submitted, and without excuse for its tardiness, this failure of specificity is inexcusable.

Moreover, even had the Commonwealth's request been timely made, there is no basis to grant it on the merits. The Commonwealth previously filed documents, styled as 'Objections,' which offered supplemental briefing on the same allegedly untimely submissions of the Moving Defendants that motivate the Commonwealth's request for additional briefing. As I explained in the June 14, 2013 Order striking these 'Objections': "[t]he question of whether the Moving Defendants have presented materials that cannot support their pending motions under the Federal Rules of Evidence was fully submitted to the Court upon the filing of their reply briefs."³ In other words, the Court is capable of considering the evidence and arguments submitted by the parties without indulging in endless rounds of briefing.

The finality inherent in a briefing schedule protects not only the interest of parties in a speedy resolution of their disputes, but also the interest of the public in the efficiency of courts. In keeping with this policy:

[T]he decision to permit a litigant to submit a surreply is a matter left to the Court's discretion. . . . [N]either the Federal Rules of Civil Procedure nor the Local Civil Rules of this court

³ 6/14/13 Order, Doc. No. 292, at 2.

authorize litigants to file surreplies. Allowing parties to submit surreplies is not a regular practice that courts follow, because such a procedure has the potential for placing a court in the position of refereeing an endless volley of briefs.⁴

Here, the Commonwealth has offered no basis to conclude that the additional briefing it requests — more than a month after the full submission of the matters in question — would be anything more than the opening shot in an “endless volley of briefs.” For this reason, and for the reasons stated above, the Commonwealth’s request for additional briefing is denied.

SO ORDERED:



Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
June 26, 2013

⁴ *Kapiti v. Kelly*, No. 07 Civ. 3782, 2008 WL 754686, at *1 n.1 (S.D.N.Y. Mar. 12, 2008).

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